

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

SAIM SARWAR,

Civil Action No. 20-14675

Plaintiff,

ORDER

v.

MAX GURWICZ

Defendant.

THIS MATTER comes before the Court upon Plaintiff Saim Sarwar's Amended Complaint [ECF No. 9]; and Plaintiff's Motion for Default Judgment [ECF No. 11.]

Plaintiff's request for entry of default was entered on December 14, 2020. [See Docket.] However, in the interim, Plaintiff filed an Amended Complaint on December 20, 2020. [ECF No. 9.] "The law is well-settled that an amended complaint supersedes the original complaint rendering it of no legal effect." Huertas v. TransUnion, LLC, No. 08-244, 2009 WL 10690329, at *2 (D.N.J. Nov. 10, 2009) (quoting United States ex rel. SimplexGrinnell, LP v. Aegis Ins. Co., No. 1:08-1728, 2009 WL 577286, at *1 (M.D. Pa. Mar. 5, 2009)). "Therefore, upon the filing of an amended complaint, 'the original complaint no longer performs any function in the case.'" Id. (citing SimplexGrinnell, 2009 WL 577286, at *1). Here, the entry of default was filed upon Defendant's failure to respond to the

initial Complaint. Given that Plaintiff has since filed an Amended Complaint, the Court concludes that the Clerk's entry of default on the earlier-filed pleading shall be set aside. See id. (collecting cases). Therefore, Plaintiff's Motion for Default Judgment [ECF No. 11] shall be denied as premature.

In light of the above,

IT IS on this 22nd day of January, 2021,

ORDERED that the Clerk's Entry of Default by VACATED; and it is further

ORDERED that Plaintiff's Motion for Default Judgment [ECF No. 11] be DENIED AS PREMATURE;

Date: January 22, 2021
At Camden, New Jersey

s/ Noel L. Hillman
NOEL L. HILLMAN, U.S.D.J.